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“EQUALITY CODE OF PRACTICE”

Guidelines for developing the Antidiscrimination Policy for employers in Serbia

Instructions and methodologies



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The Instrument for Pre-accession Assistance (IPA) provides assistance within the framework of the European Partnership of the potential candidate countries and the Accession Partnership of the candidate countries.

IPA is created as a flexible instrument made up of 5 components, with its main objective to support institution-building and the rule of law, human rights, including the fundamental freedoms, minority rights, gender equality and non-discrimination, both administrative and economic reforms, economic and social development, reconciliation and reconstruction, and regional and cross-border cooperation.

The European Union is made up of 28 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.



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All terms used in the masculine grammatical gender include the masculine and feminine genders of the persons they are referring to

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FOREWORD

This document is an integral part of the Guidelines for developing the Antidiscrimination Policy for employers in the Republic of Serbia and is, as such, completely consistent with the content of the chapters in the Glossary (Guidelines for developing the Antidiscrimination Policy for employers in the Republic of Serbia, Glossary). As a short and precise methodological guidance for certain procedures in the process of developing the Equality Code of Practice, this document aims to facilitate the employers' process of developing the Code. As an additional aid in certain stages of development of the Code, the document includes appeals addressed to the Commissioner for Protection of Equality for obtaining advice in order to fully elaborate proposed methodology and proper expertise for anti-discrimination legislation and concepts.

I. ESTABLISHMENT OF THE TEAM FOR DEVELOPING THE EMPLOYER'S EQUALITY CODE OF PRACTICE

1. Assumptions and preconditions

The long-term objective of adopting the employer's Equality Code of Practice should be greater contribution to social change i.e. reduction of discrimination and promotion of equality in the society.

Adoption of the Equality Code of Practice and development of the employer's anti-discrimination policies require that persons responsible for activities in the process of developing the Code be fully prepared to respond to new requirements. Basic procedures and mechanisms during the development of the employer's Equality Code of Practice can be classified into the following categories:

1. Establishment of the team for developing the Equality Code of Practice
2. Training of team members and their sensitization to matters of discrimination
3. Support of a mentor/Commissioner for Protection of Equality
4. Development of the employer's Equality Code of Practice

The process of developing the document should most preferably take place within the team for developing the Equality Code of Practice formed by the employer.

How does one become a member of the team for developing the Code?

Recommended profile of candidates for membership in the Team:

- Basic knowledge or foreknowledge of discrimination and human rights
- Motivation to work in the process of developing the Code
- Willingness to work in a group
- Method of communication which involves addressing others with respect, flexibility in communication, sense of appropriate humour, focus on the subject, non-confrontational behaviour, and the like.

Which people should be included in the Team?

- Top management representative
- Representative of the Human resources organizational unit
- Representative of each organizational unit (if there are more than one)
- Representative of the employees organization (if any)

The procedure for appointing Team members:

- Based on the recommended candidate profile and the organizational chart of the company, the employer shall appoint the members of the Team for developing the Equality Code of Practice
- Among the selected members of the team, the employer shall appoint a team leader who will monitor the work

Should it turn out that team members do not have the knowledge or do not have enough knowledge about discrimination in general, its illegality and harmful effects it causes in the working environment, the employer can contact the Commissioner for Protection of Equality to organize training, i.e. workshops, to be conducted by experts employed in the Commissioner's Expert Service.

The process of developing the Equality Code of Practice should consist of two phases: The phase of analysis and the phase of developing the Code.

II. THE PHASE OF ANALYSIS

1. Analysis of relevant regulations and documents

In order for the team for development of the employer's Equality Code of Practice to respond to the challenge of preparing this document, it is necessary for them to prepare a list of all relevant documents that represent the anti-discrimination legal framework (the most important documents are listed in the Glossary). Team Leader should promptly ask team members to analyse each individual document and to prepare a relevant summary.

The team should prepare a list of companies that have already enacted similar Codes and communicate with these companies in order to exchange experiences in the process of adoption of the Code and its application.

1. Analysis of stakeholders

Stakeholders are all the individuals, groups, associations, institutions or other entities which in any way have a direct or indirect interest in the work of the company. In terms of making the Equality Code of Practice, all employees are also stakeholders.

Stakeholder analysis should contribute to a better understanding of the attitudes and expectations in relation to the development of the Code.

Stakeholders are divided into three main groups:

- Key partners within the company – all employees
- Key partners outside the company – business partners
- End users (direct users of services or products provided by the company)

The team for developing the Code should identify the stakeholders and devise methods for collecting data on the needs of stakeholders. Data can be collected in various ways, for instance by interviews and surveys (verbal, via telephone or via the Internet).

The most practical method of collecting data is to create specific, structured questionnaires, which should cover all issues relating to experiences of stakeholders with regard to discrimination, the needs and expectations of stakeholders in terms of equality, but in the context of their interaction with the company. Questions should be formulated in a clear and simple way. The questionnaire should be filled in anonymously.

Example questionnaire for employees: 2

For better understanding, we recommend that a simplified definition of discrimination is provided at the beginning of the questionnaire.

“In this questionnaire, discrimination is defined as the unequal treatment of employees/partners/customers/users on the grounds of a personal characteristic, for example gender, sexual orientation, religion, ethnic origin and other personal characteristics”

1. Have you ever been discriminated against in the company you work for?

Yes

No

Did you feel uncomfortable about one of your personal characteristics during your interview?

Yes

No

2. Did, in your opinion, the employer do everything to prevent discrimination at the workplace?

Yes

Partially

No

3. Can the employer prevent discrimination in another manner? Please specify:

4. Do you think that this approach to the analysis of employees' opinions would contribute to improving equality in the company?

Yes

Partially

No

1. Analysis of stakeholders' needs

After completing the questionnaire by the stakeholders, the analysis of the data obtained is performed. This is done by one or more team members. Their main task is to analyse the data obtained by making tables of the basic needs of stakeholders with regard to discrimination and promotion of equality in the company.

Key partners within the institution (employees)	Employees' needs	Activities that can be undertaken to meet the needs of employees in terms of improving equality

Key partners outside the institution (business partners)	Business partners' needs	Activities that can be undertaken to meet the needs of employees in terms of improving equality

End users	Users' needs	Activities that can be undertaken to meet the needs of employees in terms of improving equality

The ultimate objective of the analysis is to define the parameters of the Code by which the company would respond to the needs of the stakeholders in the right manner.

III. PHASE OF DEVELOPING THE CODE

The introductory part of the Code should include an explicit declaration of the employer's commitment to establish and foster equality in the company. The employer should, in this part, express the opinion that discrimination in the workplace will not be tolerated, since it is both an illegal and a negative social phenomenon.

The provision on gender-neutral language of the Code contributes to the formation of affirmative social attitudes on equal treatment of women and men.

The document should be written using simple and precise language.

Based on data obtained in the analysis of stakeholders, the employer, through provisions of the Code, provides responses to the identified needs of the stakeholders in accordance with their capabilities. The provisions of the Code should include all phases of the work process: from the employment process, promotions and maternity leave, to the improvement of conditions for provision of services.

EXAMPLES:

1. Part from the “Promoted business principles of company Hewlett-Packard”¹

“Since its founding, Hewlett-Packard has demonstrated an ongoing commitment to people and to fair employment practices. As HP has grown and expanded throughout the world, its work force has become more diverse. HP believes that this diverse work force helps the company realize its full potential. Recognizing and developing the talents of each individual brings new ideas to HP. The company benefits from the creativity and innovation that results when HP people who have different experiences, perspectives and cultures work together. This is what drives invention and high performance at HP. We believe a well managed, diverse work force expands HP’s base of knowledge, skills and cross-cultural understanding, which in turn, enables us to understand, relate and respond to our diverse and changing customers throughout the world, connecting them to the power of technology. Our overall commitment is reflected in our diversity and inclusion philosophy.”

- *A diverse, high-achieving workforce is the sustainable competitive advantage that differentiates HP. It is essential to win in the marketplaces, workplaces and communities around the world;*
- *An inclusive, flexible work environment that values differences motivates employees to contribute their best;*
- *To better serve our customers, we must attract, develop, promote and retain a diverse workforce;*
- *Trust, mutual respect and dignity are fundamental beliefs that are reflected in our behaviour and actions;*
- *Accountability for diversity and inclusion goals drives our success. “*

¹ More about this at: <http://www.hp.com/hpinfo/abouthp/diversity/nondisc.html>

2. Part from the “Promoted business principles of company IBM”²

Non-discrimination and harassment

“IBM will not discriminate in hiring, promotion, training, compensation of employees and employment practices on grounds of race, colour, religion, age, nationality, social or ethnic origin, sexual orientation, gender, gender identity and expression, marital status, pregnancy, political affiliation, union membership, protected genetic information or disability, or covered veteran status.

IBM will create a work environment free of discrimination or harassment based on the noted categories. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests or physical exams that could be used in a discriminatory way.”

The Code should particularly contain positive (affirmative) measures, as described in the Glossary, which the employer will introduce to improve the position of socially vulnerable groups.

Protection against discrimination in the employment procedure: the case of Germany

Federal Anti-Discrimination Agency of the Republic of Germany carried out a pilot project of anonymous job applications in 2010 and gave an opportunity for employers to review and revise their employment policies. Several large companies took part in this project (Deutsche post DHL, Mydays, Telekom, L’Oréal and Procter & Gamble), along with The Federal Ministry for Family Affairs, Senior citizens, Women and Youth, a branch of the Federal Employment Agency and local authorities of the city of Celle. During the one-year pilot project, several thousand applications were depersonalized for about 225 jobs/practices/positions at universities. In English-speaking countries, anonymous applications have long been the standard. In the United States, Canada and the UK, applications do not contain personal details and photographs. Several European countries, such as Sweden, France, Belgium and Switzerland have already had the experience of anonymous applications for employment. In Belgium, since 2005, the law has stipulated that personal data cannot be included in the application for a job in the public sector.

Anonymous (depersonalized) job applications do not provide absolute protection from discrimination, but can, to a large extent, diminish them during the recruitment process. A survey conducted by the ILO³ shows that discrimination decreases during the recruitment process, and that it is at its highest level at the time of determining whether candidates should be invited for an interview or not. In the case of anonymous (depersonalized)

² More about this at: https://www.ibm.com/ibm/responsibility/ibm_policies.html

³ Discrimination in access to employment on grounds of foreign origin in France-E. Cediey and F. Foroni

applications equal opportunities are provided for all to be invited for an interview on the basis of professional competence and professional experience, regardless of their personal characteristics. This procedure allows the employer to hire the most competent staff, which is often not the case, because some of the candidates are excluded at the first step - due to personal characteristics. Appearance, as well as name, sex, age, religion, gender or sexual orientation and origin should not be relevant to job applications.

The idea of an anonymous (depersonalized) interview is that only qualifications and motivation of those who apply for a job are recorded in job application forms, so that subjective criteria are minimized during the selection of candidates. This means that an anonymous application does not contain a photograph of the applicant, nor their name and surname, address, date of birth, or any other information which would indicate their age, civil status, or national/ethnic origin. This process should offer equal opportunities to e.g. Roma, migrants and senior candidates - as well as to young women who often fear that they would be denied an interview, due to the presumption that they are planning on having children.

1. Publication of the Code:

After the adoption of the Equality Code of Practice, it should be published in various formats, to spread the knowledge about the Code and raise awareness of all stakeholders on its contents.

In some cases, teams developing the Code will define the specific communication strategies for its promotion, involving the design of communication materials on the Code (flyers, posters, brochures ...), launching major campaigns, launching a website dedicated to the Code, etc.

What employers can do without engaging extra resources is to put the Code up on their bulletin board, publish it on their company website and present each new employee with the Code when they begin working for the company.

In each of the phases of development of the Equality Code of Practice, the team for the development of the Code can ask the Commissioner for Protection of Equality for help

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IV. MODEL Equality Code of Practice:

Convinced of the far-reaching importance of the prevention of discrimination and promotion of equality in work / business environment the staff of _____ (name of the employer, hereinafter referred to as the employer) issues this:

Equality Code of Practice

This Code is based on the following principles:

- ✓ *The principles of tolerance and prohibition of discrimination;*
- ✓ *Gender equality;*
- ✓ *Respect for human rights of employees, customers and clients;*
- ✓ *Respect for the dignity and integrity of employees, customers and clients;*
- ✓ *Respect for diversity of employees, customers and clients;*
- ✓ *An equal salary for work of equal value or equal work;*
- ✓ *Sensitivity to social groups which are in an unequal position.*

The provisions of this Code are in the context of prohibition of any discrimination by the employer during the employment process, and in relation to customers, clients, business partners and other business entities, and are based on and harmonized with the Constitution of the Republic of Serbia, the Law on the Prohibition of Discrimination and other anti-discrimination legislation.

Good practice in terms of prevention of discrimination is important for employers, employees and clients because it:

- ✓ *Ensures the benefit of employees;*
- ✓ *Ensures the benefit of the employer;*
- ✓ *Ensures the establishment of trust with clients;*
- ✓ *Contributes to the creativity and efficiency of the staff;*
- ✓ *Enables loyalty to the clients and commitment to employees.*

Therefore, the employer, recognizing the importance of preventing discrimination for the entire staff and for clients, service users and partners, expresses the willingness and commitment to ensure the following:

- ✓ Provide equal opportunities for employment for all candidates, both male and female;*
- ✓ Job applications are considered and assessed, regardless of personal characteristics of the candidates and are rated only according to competence in relation to the requirements of a particular job;*
- ✓ Does not treat differently any employee, client, user of services or any partner on the basis of any personal characteristic;*
- ✓ Enable employees to perform their tasks in a productive environment without discrimination and harassment of any kind;*
- ✓ Uphold the principle of reasonable adaptation of conditions and location of work for all employees, according to their needs;*
- ✓ Assess the performance of employees in a non-discriminatory manner, objectively, appreciating their capacities and contribution;*
- ✓ Provide access to training, mentoring and opportunities for work experience for employees, regardless of their age, gender, disability, marital status, sexual orientation or any other personal characteristic;*
- ✓ Establish procedures for employees and clients who wish to call attention to discrimination or to submit a complaint to the Commissioner for Protection of Equality;*
- ✓ Enable employees to, in agreement with the employer, appropriately coordinate their professional obligations with private and family responsibilities;*
- ✓ Provide services and information to all users, regardless of disability, gender, age, health status or any other personal characteristic;*
- ✓ Apply the principle of flexibility in the provision of services, in order to respect the different needs of customers and users of services;*
- ✓ Provide accessible and simple means of communication with and among employees, as well as with partners, clients and users of services;*
- ✓ Make an effort so that its advertising strategies reflect a commitment to the diversity of clients;*
- ✓ Consult and cooperate with the Commissioner for Protection of Equality, as well as representatives of employees, clients and users of services for the implementation of this Code.*

In order to promote equality and protection from discrimination in the workplace/business environment, the employer will in particular:

- 1. When announcing a job position, list only the necessary qualifications and characteristics for candidates, directly related to the performance of specific tasks;*

2. *When appropriate, especially motivate candidates from sensitive groups in its job postings;*
3. *Use gender sensitive/neutral language in its job postings;*
4. *Publish job postings in a variety of accessible formats and in places where they can be seen by different groups of candidates;*
5. *Appoint a person/persons responsible for monitoring the implementation of the Code, communication with the Commissioner for Protection of Equality and the provision of information to employees and users of services about the Code and rights in connection with the prohibition of discrimination and the manner of exercising these rights;*
6. *Present the Code to newly employed persons upon their engagement;*
7. *Provide employees with information on ways to protect their rights under anti-discrimination laws, and contact information for the Commissioner for Protection of Equality, at all times;*
8. *Fully inform the employees, at their own request, about their rights concerning pregnancy, maternity leave and leave from work for child care;*
9. *Provide conditions for training in order to familiarize employees with the concept of discrimination and means of protection of rights;*
10. *Take measures of reasonable adaptation of the workplace and work tasks according to the needs and abilities of employees, as well as other affirmative measures for employees;*
11. *Display this Code in a visible place on their premises and/or publish it on their website and in other appropriate places, in accessible formats;*
12. *Invite employees, service users and partners to provide feedback on the implementation of the provisions of this Code.*

*The employer appoints the following person
to monitor the implementation of this Code:*

Place and date of adopting the Code

Signature of the responsible person